

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be reimbursement for date of service 1-29-02.
- b. The request was received on 6-14-02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. HCFAs
 - c. EOBs
 - d. Preauthorization letter dated 1-24-02
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60 and/or Response to a Request for Dispute Resolution
 - b. EOB/TWCC 62 forms
 - c. Preauthorization letter dated 1-24-02
 - c. Medical Records
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 7-16-02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 7-17-02. The response from the insurance carrier was received in the Division on 7-31-02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Letter Requesting Additional Information is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter No date:
“1. Carrier is denying date of service 1-29-2002 stating we did not have preauthorization. 2. I show we did obtain preauthorization for the proposed surgery. 3. We show preauth was done through preauth company; second opinions are no longer required after January 2002. 4. Carrier is responsible since preauth was obtained. 5. Per Rule 133.301 (A). Insurance carrier shall not retrospectively review the medical necessity of a medical bill for treatment or services for which preauthorization was obtained under Chapter 134.600 (A).”
2. Respondent: Letter dated 7-31-02:
“The Provider initiated the Spinal Surgery Second Opinion Process in 2001, and the TWCC determined the final result to be a NONCONCURRENCE Dr___ medical report clearly outlines the reasons he did not agree with Dr___ recommendation for spinal surgery... Dr___ opinion indicates the claimant is suffering from an SI joint problem, not the L5-S1 condition the surgery was addressing. Additionally, Dr___ did not believe the claimant had adequate workup or had her inorganic findings addressed with psychiatric evaluation. Dr___ opinion and the TWCC’s determination clearly established that requested spinal surgery was not reasonable and necessary to cure and relieve the effects of the compensable injury. Since the provider began the spinal surgery process under Rule 133.206 before it’s amendment January 1, 2002, the Carrier’s position is that the spinal surgery issue must continue to be adjudicated under the spinal surgery second opinion process... . The Carrier maintains its dispute of the spinal surgery in accordance with the TWCC’s determinations under Rule 133.206.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 1-29-02.
2. The Carrier has denied the disputed services as “A – This service not authorized.” Also noted on the Carrier’s TWCC 62 “PER ATTACHED MR34, RESULTS OF SPINAL SURGERY SECOND OPINION PROCESS DATED 08/01/2002, REFLECTS THE CARRIER WILL NOT BE RESPONSIBLE (LIABLE) FOR THE COST OF SPINAL SURGERY RELATED TO COMPENSABLE INJURY AT THIS TIME.”
3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
1-29-02	63047 L4-80	\$1000.00	\$-0-	A	\$885.00	TWCC Rule 134.600(h) (3); (n); Rule 133.206 (l); CPT Descriptor	<p>The Carrier has denied the disputed services as "A".</p> <p>The Carrier has reflected in their position statement that the second opinion process should be continued since the initial request for surgery was initiated in 2001. A Preauthorization approval letter was noted in both the Requestor and Respondent's submitted documentation. However, per Rule 134.600 (n), the resubmission after a nonconcurrence that occurred in 2001, would have to be governed by Rule 133.206 (l). Thereby, making the issue of preauthorization a moot point.</p> <p>No reimbursement is recommended.</p>
1-29-02	63048 L5-80	\$ 400.00	\$-0-	A	\$177.00		
1-29-02	22625 L5-80	\$1000.00	\$-0-	A	\$632.25		
1-29-02	22650 S1-80	\$ 250.00	\$-0-	A	\$159.25		
1-29-02	22842 80	\$1000.00	\$-0-	A	\$850.00		
1-29-02	20975 80	\$ 250.00	\$-0-	A	\$113.75		
Totals		\$3,900.00	\$-0-				The Requestor is not entitled to reimbursement.

The above Findings and Decision are hereby issued this 19th day of November 2002.

Lesia Lenart
 Medical Dispute Resolution Officer
 Medical Review Division

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